

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

**PURDUE PHARMA L.P.,
THE P.F. LABORATORIES, INC.,
PURDUE PHARMACEUTICALS L.P.,
and RHODES TECHNOLOGIES,**

Plaintiffs,

v.

COLLEGIUM PHARMACEUTICAL, INC,

Defendant.

**Civil Action No.
15-13099-FDS**

MEMORANDUM AND ORDER OF PARTIAL JUDGMENT

SAYLOR, J.

Plaintiffs Purdue Pharma L.P., The P.F. Laboratories, Inc., Purdue Pharmaceuticals L.P., and Rhodes Technologies (“Purdue”) brought the above-captioned action against defendant Collegium Pharmaceutical, Inc. (“Collegium”) for infringement of, *inter alia*, Purdue’s United States Patent Nos. 7,674,799, 7,674,800, and 7,683,072 (the “low-ABUK patents”).

On February 1, 2016, the United States Court of Appeals for the Federal Circuit affirmed the Southern District of New York’s finding of invalidity of certain claims of the low-ABUK patents. The parties have agreed that, pursuant to the Federal Circuit’s decision, certain claims of the low-ABUK patents are invalid based on the doctrine of collateral estoppel.

Purdue seeks to reserve all rights to further appellate review of the Federal Circuit’s decision and of any judgment in this case, and to seek reinstatement of the 30-month stay in this case under 35 U.S.C. § 355(c)(3)(C) if the Federal Circuit’s decision is altered. Collegium seeks to reserve all rights to oppose such relief and to show that the 30-month stay in this case may not be reinstated.

The Court, upon the stipulation and request of the parties, and upon due consideration, hereby orders as follows:

The Court finds that plaintiffs are collaterally estopped from asserting infringement of the claims of U.S. Patent Nos. 7,674,799, 7,674,800, and 7,683,072 that were the basis of the judgment of invalidity entered by the U.S. District Court for the Southern District of New York in *Purdue Pharma L.P. v. Teva Pharmaceuticals, USA, Inc.*, No. 1:11-cv-02037-SHS, as affirmed by the United States Court of Appeals for the Federal Circuit in *Purdue Pharma L.P., et al. v. Epic Pharma, LLC*, 2016 WL 380174 (Fed. Cir. Feb. 1, 2016).

The Court finds that there is no just reason for delay and directs that judgment under Federal Rule of Civil Procedure 54(b) shall be entered in favor of defendant Collegium Pharmaceutical, Inc. and against plaintiffs Purdue Pharma L.P., The P.F. Laboratories, Inc., Purdue Pharmaceuticals L.P., and Rhodes Technologies on (1) plaintiffs' first claim for relief asserted in the complaints (15-13099 Dkt. No. 1 and 15-13624 Dkt. No. 1), and (2) on defendant's first counterclaim (Count One) in civil action no. 15-13099 with respect to U.S. Patent Nos. 7,674,799, 7,674,800, and 7,683,072 only.

Plaintiffs' claims asserting infringement of U.S. Patent Nos. 7,674,799, 7,674,800, and 7,683,072 against Collegium are hereby DISMISSED with prejudice.

So Ordered.

Dated: February 9th, 2016

/s/ F. Dennis Saylor
F. Dennis Saylor IV
United States District Judge